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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/049,256 | 05/03/2002 | Frank Joseph Garvey | 148/291 | 8425 |

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EXAMINER

STRIMBU, GREGORY J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3634

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,256

Applicant(s)

GARVEY, FRANK JOSEPH

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slots must be shown or the feature canceled from claim 24. No new matter should be entered.

The drawings are objected to because the applicant has failed to use the proper cross sectional shading when showing a cross sectional view of the invention. For example, see figure 1 which shows a cross sectional view of the finger protector device but fails to use a cross sectional shading in accordance with MPEP 608.02.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

Claims 14-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "flexible means" on line 2 of claim 14 render the claims indefinite because the applicant has attempted to use a "means" clause to recite

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a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "connected" on line 2 of claim 20 render the claims indefinite because it is unclear to what element of the invention the applicant is referring. In other words, what elements are connected? Recitations such as "the or each" on line 1 of claim 22 render the claims indefinite because it is unclear if the applicant is setting forth "the" or "each". Recitations such as "pre-biased at about 90 degrees" is confusing because it is unclear what the applicant is attempting to set forth. What does the applicant mean by "pre-biased"? Recitations such as "may have" on line 2 of claim 24 render the claims indefinite because it is unclear if the surfaces have the slots or may merely have the opportunity to have the slots. Recitations such as "mounted thereto" on line 2 of claim 24 render the claims indefinite because it is unclear how a slot can be mounted to a surface when it appears that a slot would be in a surface. Recitations such as "a first mounting portion" on line 2 of claim 25 render the claims indefinite because it is unclear if the applicant is referring to the mounting portion set forth above or is attempting to set forth another mounting portion in addition to the one set forth above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lucas et al. Lucas et al. discloses a finger protection device 14 comprising first 28, second 27 and third 26 members, the second member being connected between the first and third members by flexible means 52 and 37, the first member is arranged, in use, to be mounted to a first surface 11 and the third member is arranged, in use, to be mounted to a second surface 12, in which relative movement of the first and second surfaces is possible, mounting portions 25 and 30

Claim Rejections - 35 USC § 103

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas as applied to claims 14-21 and 25 above, and further in view of Danish Patent Publication No. 9301278. Danish Patent Publication No. 9301278 discloses a finger protection device comprising mounting portions which are thicker than the remaining portions of the protection device.

It would have been obvious to one of ordinary skill in the art to provide Lucas with thicker mounting portions, to increase the strength of the mounting portions.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas as applied to claims 14-21 and 25 above, and further in view of British Patent Publication No. 2 138 478. British Patent Publication No. 2 138 478 discloses a finger

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protection device 1 comprising mounting portions 5 and 6 which are each attached to a member 3, 4, respectively by a joint which is pre-biased at about 90 degrees.

It would have been obvious to one of ordinary skill in the art to provide Lucas with joints, as taught by British Patent Publication No. 2 138 478, to ensure the finger protection device is properly biased away from the door and door frame when the door is closed.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas as applied to claims 14-21 and 25 above, and further in view of British Patent Publication No. 2 314 112. British Patent Publication No. 2 314 112 discloses a finger protector device comprising slots for connecting a mounting portion to a surface.

It would have been obvious to one of ordinary skill in the art to provide Lucas with slots, as taught by British Patent Publication No. 2 314 112, to more securely mount the mounting portions to the surfaces.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Teinturier-Milgram, Sankey et al. and Hanson are cited for disclosing finger protector devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-

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305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal line extending from the end of the signature.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
April 17, 2003